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RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §§ 1983**

Name Payne Kevin L.
 (Last) (First) (Initial)

Prisoner Number F-70974Institutional Address SAN QUENTIN STATE PRISON, SAN QUENTIN, CA 94974**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**Kevin Payne

(Enter the full name of plaintiff in this action.)

vs.

Michael Healy of O.P.D.
Sgt. Mullix of O.P.D.
Chief Wayne Tucker of O.P.D.
~~Healy~~ Does I-X
 (Enter the full name of the defendant(s) in this action)

Case No. C08-1786 WHA(PR)
(To be provided by the Clerk of Court)**COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
Title 42 U.S.C § 1983**Amended Complaint**[All questions on this complaint form must be answered in order for your action to proceed.]****1. Exhaustion of Administrative Remedies.****[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]**A. Place of present confinement S.O.S.P. SAN QUENTIN, CA 94974

B. Is there a grievance procedure in this institution?

YES () NO (☒)

C. Did you present the facts in your complaint for review through the grievance procedure?

YES () NO (☒)

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal N/A

2. First formal level N/A

3. Second formal level N/A

4. Third formal level N/A

E. Is the last level to which you appealed the highest level of appeal available to you?

YES () NO (X)

F. If you did not present your claim for review through the grievance procedure, explain why. N/A

II. Parties.

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

Kevin Lamont Payne

B. Write the full name of each defendant, his or her official position, and his or her place of employment.

Mike Healy, O.P.D. Officer, SGT. Mullix O.P.D., WAYNE

1 Tucker, Oakland Police Chief for O.P.D.
 2
 3
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5 III. Statement of Claim.

6 State here as briefly as possible the facts of your case. Be sure to describe how each
 7 defendant is involved and to include dates, when possible. Do not give any legal arguments or
 8 cite any cases or statutes. If you have more than one claim, each claim should be set forth in a
 9 separate numbered paragraph.

10 On October 25, 2005 Oakland Police Officer Mike Healy shot Plaintiff
 11 three times, once in Abdomen and once in both legs. Plaintiff was unarmed
 12 At this time. I claim that officer Healy used excessive force therefore
 13 violating my Fourth and Eighth Amendment rights. Sergeant Mullix
 14 is to be held responsible for negligent training and supervising.
 15 Chief of Police Wayne Tucker acted negligently as well by retaining an
 16 officer who after a pitch motion has plainly shown that this officer
 17 Healy has acted recklessly and maliciously in the act of duty before.
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23 IV. Relief.

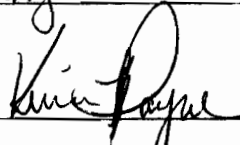
24 Your complaint cannot go forward unless you request specific relief. State briefly exactly
 25 what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

26 In acting as described herein above, defendants acted despicably
 27 knowing, willfully and maliciously, or with reckless or callous
 28 disregard for plaintiff's federally protected rights, entitling plaintiff

1 AN Award of exemplary and punitive damages.
2
3
4

5 I declare under penalty of perjury that the foregoing is true and correct.
6

7 Signed this 7th day of May, 20 08
8

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(Plaintiff's signature)
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Kevin Payne Plaintiff,

vs.

Mike Healy, Sergeant Mullix
Wayne Tucker of O.P.D. Defendant.

CASE NO. C08-1786WHA(PR)

**PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

I, Kevin Payne, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes ___ No ✓

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: N/A Net: N/A

Employer: N/A

1 If the answer is "no," state the date of last employment and the amount of the gross and net
 2 salary and wages per month which you received. (If you are imprisoned, specify the last
 3 place of employment prior to imprisonment.)

4 Tactical Telesolutions, SAN FRANCISCO, CALIFORNIA.
 5 From Oct. 2001 until Feb. of 2003. UNSURE.
 6

7 2. Have you received, within the past twelve (12) months, any money from any of the
 8 following sources:

9 a. Business, Profession or Yes ___ No ☒
 10 self employment

11 b. Income from stocks, bonds, Yes ___ No ☒
 12 or royalties?

13 c. Rent payments? Yes ___ No ☒

14 d. Pensions, annuities, or Yes ___ No ☒
 15 life insurance payments?

16 e. Federal or State welfare payments, Yes ___ No ☒
 17 Social Security or other govern-
 18 ment source?

19 If the answer is "yes" to any of the above, describe each source of money and state the amount
 20 received from each.

21 N/A
 22

23 3. Are you married? Yes ☒ No ___

24 Spouse's Full Name: ENA Marie Payne

25 Spouse's Place of Employment: N/A

26 Spouse's Monthly Salary, Wages or Income:

27 Gross \$ ___ Net \$ ___

28 4. a. List amount you contribute to your spouse's support: \$ 0

- b. List the persons other than your spouse who are dependent upon you for support and indicate how much you contribute toward their support. (NOTE: For minor children, list only their initials and ages. DO NOT INCLUDE THEIR NAMES.).

K.L.P. and E.P. K.P.

5. Do you own or are you buying a home? Yes ___ No ☒

Estimated Market Value: \$ ___ Amount of Mortgage: \$ ___

6. Do you own an automobile? Yes ___ No ☒

Make ___ Year ___ Model ___

Is it financed? Yes ☒ No ___ If so, Total due: \$ ___

Monthly Payment: \$ ___

7. Do you have a bank account? Yes ___ No ☒ (Do not include account numbers.)

Name(s) and address(es) of bank: ___

Present balance(s): \$ N/A

Do you own any cash? Yes ___ No ☒ Amount: \$ ___

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes ___ No ☒

8. What are your monthly expenses?

Rent: \$ N/A Utilities: N/A

Food: \$ N/A Clothing: N/A

Charge Accounts:

Name of Account	Monthly Payment	Total Owed on This Acct.
<u>N/A</u>	\$ ___	\$ ___
<u>N/A</u>	\$ ___	\$ ___
<u>N/A</u>	\$ ___	\$ ___

1 9. Do you have any other debts? (List current obligations, indicating amounts and to
2 whom they are payable. Do not include account numbers.)

3 N/A

4
5 10. Does the complaint which you are seeking to file raise claims that have been presented
6 in other lawsuits? Yes ___ No ✓

7 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in
8 which they were filed.

9 N/A

10
11 I consent to prison officials withdrawing from my trust account and paying to the court
12 the initial partial filing fee and all installment payments required by the court.

13 I declare under the penalty of perjury that the foregoing is true and correct and
14 understand that a false statement herein may result in the dismissal of my claims.

15
16 5-7-08

17 DATE

Kenn Parker

SIGNATURE OF APPLICANT

Kevin L. Payne Sr.

7-70974

S.O.S.P.

San Quentin, CA

94964



Clerk of the United States District Court
for Northern District of Calif.
450 Golden Gate Avenue, Box 36000
San Francisco, CA

94102

